

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Adelfo Avila ,)	
)	
Plaintiff,)	Case No. 23-cv-1075
)	
v.)	Honorable LaShonda Hunt
)	
Ali Faraj, TASTE OF LEBANON, INC.)	
)	Jury demanded
Defendants.)	

**PLAINTIFF’S PROVE UP OF DAMAGES
AND MOTION FOR ENTRY OF JUDGMENT**

Plaintiff, through his undersigned counsel, now moves this Court for the entry of an order for default judgment against Defendants jointly and severally and in support of this motion states as follows:.

Prove up of damages

1. Plaintiff Adelfo Avila Vidal, has executed a declaration (attached as Exhibit A) describing the timekeeping system used by Defendant Taste of Lebanon, Inc. (Taste).
2. Plaintiff checked in via an app which sent an email to him and to the employer’s email, the contents of which stated the date and time Plaintiff was either checking in or out.
3. Plaintiff gave his counsel access to his email to download all time entries. Plaintiff’s check ins and check outs for the time period beginning February 22, 2020 (the statutory period for willful violation commencing three years before the filing date), and ending in September 2022 (the dates Plaintiff largely stopped working overtime), were entered into two spreadsheets - one for the years 2020 -2021 and one for 2022. (Exhibits B and C).

4. Column A is the date worked by Plaintiff. Column B indicates that either a punch in or punch out was missing and the time in or out is estimated based on the time entries surrounding the missing one. Columns C and D are the check in and out times respectively (expressed in military time). Column E totals the hours worked per day. Column F calculates the number of hours of worked per week by summing seven consecutive days of time entries. Column G calculates the hours of overtime worked in a week by subtracting 40 hours from Column F. Column H multiplies the number of overtime hours by one half and then by the hourly wage of \$17.00 per hour. Column I calculates interest by taking total damages on a monthly basis (Column H) and multiplying this figure by the number of months in the past that the wages were due (and began accruing interest) and multiplying this by the statutory interest rate of 5% per month under the Illinois Minimum Wage Law. These sums are totaled at the bottom of each sheet. (Exhibits B and C).

5. The amounts from 2020-2021 and 2022 are totaled on Exhibit C page 6: unpaid overtime \$12,971, Liquidated damages \$12,971, interest \$26,272.03

6. The Plaintiff's total damages including unpaid overtime, the same amount in liquidated damages, and interest is \$52,615.03.

Fees and Costs

7. Additionally, Plaintiffs request that this Court enter an award of attorneys' fees of \$8222.50 which equals 14.3 hours of attorney time spent by Plaintiffs' counsel at a rate of \$575/hour. Counsel was awarded attorneys' fees at a rate of \$550 per hour by Judge Gettleman in the case *Asabay v. A & M Wine and Spirits, Inc. et al*, Case No 1:18-cv-01127 in November 2021. (Exhibit D - Order granting fee petition in Case No 1:18-cv-01127 and awarding a rate of \$550/hr for 80.8 hours of time). This represents slightly more than 2% per year increase over the rate awarded by Judge

Gettleman in an FLSA case in November 2021. Plaintiff paid \$402 for filing the case and has had miscellaneous postage costs which he is foregoing.

8. Plaintiffs request that the Court issue an order finding Defendants liable for a total of \$61,238.53 representing \$52,615.03 in damages, penalties and interest to Plaintiff, and \$8,222.50 in attorneys' fees and \$402 in costs.

Wherefore, plaintiff now requests that an order of judgement be entered against both Defendants in the amount of \$61,238.53.

Respectfully submitted,

/s/ Jorge Sanchez
One of Plaintiffs' Attorneys

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